

EXHIBIT 50

REDACTED

16 VIDEOTAPED DEPOSITION OF RICARDO GONZALES
17 February 12, 2019
18 9:20 a.m.
Regus Office Suites
150 Washington Avenue
Santa Fe, New Mexico 87501

PURSUANT TO THE NEW MEXICO RULES OF CIVIL
PROCEDURE, this deposition was:

21 TAKEN BY: MR. MICHAEL LEIB
ATTORNEY FOR DEFENDANT

23 REPORTED BY: ANNE D. WIESE, RPR, NM CCR #301
23 VIDEOGRAPHER: SCOTT SAIZ
23 TRATTTEL COURT REPORTING
24 609 12TH STREET NW
24 ALBUQUEROUE, NEW MEXICO 87102

1 understand the criteria. Longevity wasn't it. The
2 dollar value of your prescriptions monthly wasn't it.
3 You know, it's -- I was great personal friends with my
4 pharmacist in Eau Claire, and he never mentioned it. I
5 mean, I had no clue how they select, you know, the
6 participants, and I still don't to this day.

7 And again, it's not -- and I'm not pursuing
8 it because, please remember, I'm really not doing
9 business for the most part with Walgreens.

10 Q. Do you recall when you stopped doing business
11 for the most part with Walgreens?

12 A. It would have been in December -- primarily in
13 December of 2015. Not totally but primarily.

14 Q. When you say "not totally," what do you mean?

15 A. Well, some of those prescriptions -- excuse
16 me -- that I brought down from Wisconsin would have been
17 six months' prescriptions. So even though I may
18 have -- you know, I turned them in October, November,
19 they still would have -- you know, some of them would
20 have trickled over into early 2016.

21 So there's -- so they needed to run out
22 because I didn't want to -- the issue I had with getting
23 out-of-state prescriptions to New Mexico was a huge
24 problem. The idea of now transferring those to another
25 place, I said, you know, I don't even know -- want to

1 know what kind of problems I'm going to face there, so
2 we'll let them run out.

3 And as new prescriptions were -- and by
4 that time, early 2016, I had a new family physician in
5 New Mexico, in Los Alamos, and so he would now be
6 issuing new prescriptions from New Mexico in New Mexico.
7 Those didn't go to Walgreens.

8 Q. Those new prescriptions went to Kroger's; is
9 that correct?

10 A. Kroger's.

11 MS. KEARNS: Object to form.

19 So I did get prescriptions from them in
20 September of last year, as you -- I think you alluded
21 to. [REDACTED]

23 Q. (By Mr. Leib) Why did you say that Walgreens
24 is the only option?

25 A. They're pretty much the only -- I mean, you

1 know, there's a CVS, I think -- yes, there's a fairly
2 new CVS, but I had no experience with them. And I still
3 know the pharmacist in Eau Claire. So, you know, that's
4 where I had them sent when I'm discharged from the
5 hospital.

6 VIDEOGRAPHER: Five-minute media warning.

7 Q. (By Mr. Leib) You could have gotten them
8 filled at CVS, correct?

9 MS. KEARNS: Object to form.

10 A. I have no experience with them and I don't --
11 I'm not one for creating a lot of new -- you know, I buy
12 most everything from Amazon, even though it's
13 probably -- I can get this one cheaper at Walmart or
14 whatever. I just go down (inaudible). I don't like
15 having to spread things around, really.

16 Q. (By Mr. Leib) There would have been no
17 restriction from you going to the CVS, correct?

18 A. No.

19 Q. They could have filled out the prescription?

20 A. I'm sure they could have.

21 MS. KEARNS: Object to form.

22 MR. LEIB: Given that we have the warning
23 here, I think it's a good time to take a short break.

24 THE WITNESS: Okay.

25 VIDEOGRAPHER: The time is 11:17 a.m and

1 That's the sold dollars price in this data.

2 MS. KEARNS: Sold dollars price?

3 MR. LEIB: Yeah. That is the price that
4 the consumer pays the pharmacy for the drug.

5 MS. KEARNS: Okay.

6 Q. (By Mr. Leib) And do you see on the last page,
7 the last highlighting under that column, it says,
8 "\$7.65"?

9 A. I see that, but I doubt the validity of this
10 document.

11 Q. And why do you doubt the validity of this
12 document?

13 A. Because according to this, from March 6th to
14 April 26th, I was in Chandler, Arizona. I have not been
15 in Chandler, Arizona.

16 Q. You've never been in Chandler, Arizona?

17 A. Not in probably 15 or 20 years.

18 Q. Why did -- why were you in Chandler, Arizona 15
19 or 20 years ago?

20 A. Taking my kids to a hockey match in Tempe. And
21 we did not stop and get any prescriptions.

22 And so that would have been back in the
23 early 2000s. I have not been in Chandler, Arizona in
24 the year of 2017.

25 Q. Has your wife been to Chandler, Arizona in the

1 year of 2017?

6 Q. You testified earlier that sometimes your wife
7 picked up prescriptions for you, correct?

8 A. Yeah.

9 Q. Is it possible that your wife picked up these
10 prescriptions for you in Chandler, Arizona?

11 A. No --

12 MS. KEARNS: Object to form.

13 A. -- not -- no. The time she went to Arizona,
14 she went by -- her and my daughter. I stayed behind.

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1 Q. (By Mr. Leib) If you look on the prior page of
2 the exhibit --

3 A. And the other part of that is that it has a
4 date range of over a month and a half. She went for a
5 long weekend, so these dates couldn't have happened.

6 Q. If you look at the prior page, towards the
7 bottom --

8 A. Chandler again.

9 Q. -- and that -- the first time Chandler is
10 mentioned there is 8/5, August 5th, 2016.

11 Was your wife or you in Chandler, Arizona
12 in August 2016?

13 A. I know I wasn't.

14 And as for her, she starts work. Working
15 at a public school, she gets the summer off, but they
16 start work late July every year. So for her to -- she
17 was not available on those August dates because she
18 would have returned to work.

19 Q. And you see Chandler is mentioned again in both
20 September and October of 2016. Is it possible your wife
21 was in Chandler or you -- strike that.

22 Is it possible you or your wife was in
23 Chandler, Arizona in September and/or October of 2016?

24 A. No.

25 MS. KEARNS: Object to form.

1 A. This range of August 5th to October 3rd to be
2 in Chandler, Arizona is an impossibility.

3 (Discussion off the record.)

4 Q. (By Mr. Leib) Do you ever get any
5 prescriptions filled out by mail?

6 A. My wife does, Express Scripts.

7 Q. For your prescriptions?

8 A. No, nothing for me.

9 Q. You don't get any prescriptions filled out by
10 mail?

11 A. No.

17 Q. You say your wife has a sister who lives in
18 Chandler, Arizona; is that correct?

19 A. No.

20 Q. Then I misunderstood.

21 A. No. You pass through -- yeah, you pass through
22 the area on your way to Vegas.

23 Q. Your wife's sister lives in Vegas?

24 A. Vegas.

25 Q. So if you drive from New Mexico to Vegas, you

1 pharmacies to see where you can get the best price for
2 the same prescription being filled?

3 A. Yes.

4 Q. When would you do that -- or when did you do
5 that?

6 A. Last year, I believe.

7 Q. What do you remember about doing that?

8 MS. KEARNS: Object to form.

9 Q. (By Mr. Leib) What do you remember about
10 shopping around for pharmacies?

11 MS. KEARNS: Object to form.

12 [REDACTED] I
13 was told it would cost approximately this much per pill.
14 It was a little over a dollar.

15 So I took that prescription to the pharmacy
16 we were using and expecting it to be a little over a
17 dollar a pill. When the prescription arrived, the price
18 was closer to \$5 a pill, which I refused to pay.

19 So next time I saw my doctor, I said, "What
20 happened?" And he recommended -- what he does is he
21 goes onto a website called GoodRx, and it gives price
22 comparisons for anything you put in there. And he found
23 that within a 30-mile radius, how many -- you know,
24 everybody's price was the same item, and one of those on
25 that list was Smith's Pharmacy, Kroger. So I took that

1 pharmacy and moved it to Kroger.

4 Q. (By Mr. Leib) Prior to that, had you ever
5 shopped around at pharmacies to see where you could get
6 the best price for the same prescription being filled?

7 A. Huh-uh (no).

8 Q. And that time that you just referred to, the
9 pharmacy that you went to that gave you a price of
10 approximately \$5, what pharmacy was that?

11 A. Nambe, Nambe Drug.

12 Q. Do you ever get prescriptions filled out at
13 Nambe Drug?

14 A. I get a number filled there.

24 Q. And that's Nambe, correct?

25 A. Nambe.

1 But we found out that, as a small Mom and
2 Pop, they had limitations. There's things they can and
3 cannot do. And so all the ones that they can't do --
4 and it's not that many -- we moved back to Smith's, but
5 the great majority of my prescriptions are still with
6 Nambe.

7 Q. Was Nambe able to fill out the prescription for
8 the prostate medication?

9 MS. KEARNS: Object to form.

10 A. Make sure I understand it -- which prescription
11 that you were talking about.

12 Q. (By Mr. Leib) Well, we were talking before
13 about an instance where you shopped around at pharmacies
14 to see where you can get the best price.

15 [REDACTED]
[REDACTED]
[REDACTED]

16 [REDACTED] and you said you went to Nambe, and
17 they were going to charge you \$5 a pill, and so you
18 instead got it filled out at the Kroger's/Smith.

19 A. For a dollar -- a little over a dollar a pill.

20 Q. And later you said Nambe had some limitations.

21 So I'm just asking you, for that prostate
22 medication, was Nambe able to fill out the prescription?

23 A. Oh, yeah. I filled them at a higher price.

24 Q. And Kroger's/Smith Pharmacy is the same?

1 A. Yeah, they're affiliated. They're part of the
2 same, yeah.

3 Q. Is the Smith's Pharmacy within the Kroger?

4 A. No. It's Smith's, but it's owned or
5 operated -- you know, they're part of the Kroger brand.
6 In the Rocky Mountains area, City Market, King Soopers
7 and a lot of others are all part of Kroger.

8 Q. Are there any other pharmacies other than Nambe
9 and Smith's where you currently --

10 A. Not that I'm aware of.

11 Q. You have to let me finish my question, if you
12 could.

13 Are there any other pharmacies where you
14 currently get the prescriptions filled out other than
15 Nambe and Smith's/Kroger?

16 A. Not that I'm aware of.

17 Q. Do you know how many prescriptions you
18 currently get filled out at Nambe on a regular basis?

19 MS. KEARNS: So I'm going to stop here. I
20 know you know that we are standing on objection that
21 prescriptions filled at other pharmacies are not
22 relevant to this matter, so I will make that note, but
23 I'm not instructing.

24 MS. COLEMAN: Ms. Kearns, I believe that
25 that objection isn't standing. My understanding was

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1 damage has been done. And I'm not going to drive 30
2 miles. You know, I'm just -- you know, I'm going
3 to -- you know, I'm going to join the Kroger, save my
4 money there, and that's good.

5 Q. So do you anticipate filing any future
6 prescriptions at a Walgreens Pharmacy?

7 MS. KEARNS: Object to form.

8 A. Well, if I have to have surgery again in
9 Wisconsin, I certainly will.

10 Q. (By Mr. Leib) So in Wisconsin, you still plan
11 to fill out prescriptions in -- at a Walgreens if you
12 need to go to --

13 A. If I need to.

14 Q. I'm sorry. If you need to go to Wisconsin, you
15 would still get it filled out at the Walgreens?

16 A. Right, because there is CVS, and I've said
17 before I had no experience with CVS, and I have no
18 interest in really starting the -- that new
19 relationship.

20 Q. What would be difficult about -- strike that.

21 Why don't you have an interest in starting
22 a new relationship with CVS?

23 MS. KEARNS: Object to form.

24 A. I don't feel comfortable in their stores. You
25 go to a Walgreens, everything is pretty well-marked.

1 The prices are low. You go to CVS and you look at
2 something, and it's 50 cents more. It's a dollar more.
3 They have less inventory.

4 So you -- I go into CVS and I usually will
5 walk out and not buy anything because I said, "Oh,
6 there's a better place for me to buy this stuff."

7 Q. Well, I'm just talking about your prescription
8 drugs, not the merchandise.

9 A. Well, no. If I had a bad feeling, if I don't
10 feel comfortable with the store or the people I'm doing
11 business with, it doesn't matter with the prescriptions
12 or anything else, I'm not going to do business there.

13 Q. Do you know there's a Shopko Pharmacy in Eau
14 Claire as well?

15 A. Yes.

16 Q. Would you shop at the Shopko Pharmacy?

17 A. Nope.

18 Q. Why not?

19 A. Up until we moved to New Mexico, we were
20 dedicated. We went to Walgreens exclusively anywhere
21 because we trusted them anywhere.

22 So if I have a Walgreens that's next to my
23 office on campus or the other branch that's near the
24 hospitals that I get my procedures done -- and I have,
25 again, 34 years of being with Walgreens -- why would I

1 go -- make it a point of going around and finding out
2 what Walmart does, what Target does, what Shopko does?

3 And the other reason for that is that
4 people tend to specialize. So maybe Shopko, they have a
5 loss leader on a particular item, but a lot of their
6 other stuff is higher. You know, that you need to go to
7 a company that's national, that is going to be fairly
8 consistent across the board, you hope, on what you're
9 getting, not we're getting, you know, Ativan for free
10 today if you buy five other -- you know, it's just -- it
11 doesn't make any sense.

12 So no, we didn't do it, and we never looked
13 into it.

Q. Nambe is not a national chain, correct?

15 A. Correct.

Q. In fact, they only have two locations, correct?

17 A. Correct -- well, actually, I think it's
18 primarily just one.

19 MS. KEARNS: Object to form.

20 Q. (By Mr. Leib) And yet you bought
21 pharmaceuticals there, correct?

22 A. Correct, at the recommendation of my doctor,
23 whose office was next door to the pharmacist, as I
24 stated earlier. He said, "Get the small Mom and Pop
25 sort of service. You'll love it." And I do like it.

1 But because there is Mom and Pop -- and
2 again, this is a repeat -- because they are a small Mom
3 and Pop, there's things they can't do.

4 Q. Shopko has got multiple locations, correct?

5 A. Not in New Mexico. They're up in the Midwest.

6 Q. I'm only talking when you go to Eau Claire.

7 A. Yeah.

8 Q. Shopko has got many locations in the area,
9 correct?

10 MS. KEARNS: Object to form.

11 A. Yeah.

12 Q. (By Mr. Leib) So I'm still not sure I
13 understand your answer as to why you are uncomfortable
14 shopping at the Shopko Pharmacy.

15 A. Well, just like the CVS, I have no history with
16 them. You know, it's the pharmacist at -- in Eau
17 Claire, when I walk in, they go, "You're back in town,"
18 you know.

19 And I say, "Yeah, I got a prescription. I
20 just had" -- you know, "I got another boo-boo. Here's a
21 prescription."

22 I'm not going to introduce myself and
23 create relationships, you know, with some other place.

24 Q. You've alleged in this lawsuit that Walgreens
25 has engaged in deceptive, unconscionable, fraudulent,

1 false, and unfair acts and practices?

2 A. Yes.

3 Q. And despite making that allegation, you're
4 still willing to shop at Walgreens when you're in Eau
5 Claire?

6 MS. KEARNS: Object to form.

7 A. If it's not much. But if I have to -- but, you
8 know, they have longer hours. They have, you know, more
9 days, you know. One of the pharmacies is 24/7, and if
10 I'm getting released from a hospital and I want to pick
11 it up and get ready to either go sit in a hotel or
12 whatever, you know, and start to recuperate, it's there.
13 You know, it's -- they're known.

14 The other thing is, is that whenever I have
15 surgery, I always need a lot of ice. Shopko didn't sell
16 ice. CVS, yeah, they sell ice, but I need to have ice
17 because I don't like -- [REDACTED]

[REDACTED]

[REDACTED]

20 And if I need snacks because I'm going to
21 hole up in a hotel, the hotel that I usually hole up
22 to -- hole up in is a Motel 6, which is literally
23 attached to a Walgreens. So I'm in Motel 6. I need
24 ice. What do I do? I walk across the breezeway. I get
25 ice. I need a snack. I walk across the breezeway. I

1 get a snack. I can't do that with Shopko. I can't do
2 that with CVS.

7 Q. (By Mr. Leib) You had another surgery in
8 December?

9 A. Yeah. I've said that.

10 Q. [REDACTED]
11 [REDACTED]
12 [REDACTED]

13 MS. KEARNS: I just was saying, please let
14 him finish his question.

15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]

21 MS. KEARNS: Object to form.

22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

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1 letter was mailed or delivered to the witness or his/her
2 attorney regarding obtaining signature of the witness;
3 and corrections, if any, will be appended to the
4 original transcript, and copies sent to place in each
5 copy of the deposition.

6 I FURTHER CERTIFY that the recoverable cost of the
7 original and one copy of the deposition, including
8 exhibits, to MR. MICHAEL LEIB is \$ _____.

9 I FURTHER CERTIFY that I did administer the oath to
10 the witness herein prior to the taking of this
11 deposition; that I did thereafter report in stenographic
12 shorthand the questions and answers set forth herein,
13 and the foregoing is a true and correct transcript of
14 the proceeding had upon the taking of this deposition to
15 the best of my ability.

16 I FURTHER CERTIFY that I am neither employed by nor
17 related to nor contracted with (unless excepted by the
18 rules) any of the parties or attorneys in this case, and
19 that I have no interest whatsoever in the final
20 disposition of this case in any court.

21

22


Anne Dorothea Wiese, RPR, CCR
New Mexico Certified Court Reporter #301
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